



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Frank Guiffre
81 Shadow Lake Road
Salem, NH 03079

Re: Construction Approval #CA2001039411

**NOTICE OF
LICENSE REVOCATION
No. 02-002**

April 16, 2004

I. Introduction

This Notice of License Revocation is issued by the Department of Environmental Services, Water Division ("DES") to Frank Guiffre. Pursuant to RSA 541-A:30, RSA 485-A: 32, I, and Env-Ws 1004.19(b), DES hereby revokes Permit #CA2001039411 held by Mr. Guiffre, based on the uncontested findings set forth in DES' Notice of Proposed License Action dated July 15, 2002 and on the findings set forth below.

II. Parties

1. The Department of Environmental Services, Water Division is an administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03302.
2. Frank Guiffre is an individual having a mailing address of 81 Shadow Lake Road, Salem, NH 03079.

III. Summary of Facts and Law Supporting Proposed Action


1. RSA 485-A:29-44 authorizes DES to regulate the subdivision of land and the design and installation of subsurface sewage disposal systems. Pursuant to RSA 485-A:41, the Commissioner of DES has adopted NH Admin. Rules Env-Ws 1000 to implement this program.
2. DES issued Construction Approval #CA2001039411 dated December 4, 2001 ("the Permit") to Frank Guiffre to allow construction of a new septic system located at 81 Shadow Lake Road, Salem, NH ("the Property"). The Permit was issued to improve an existing situation by reconstruction of the existing septic system.
3. Env-Ws 1004.19(a) states that "any [septic system] approval issued by the department shall be issued based on the presumption that the information submitted as part of the application is true, complete or not misleading."
4. Env-Ws 1003 *et seq.* requires review and approval of a septic system design prior to construction of an individual septic system.

5. On June 5, 2002, DES personnel inspected the Property, along with the Town of Salem health officer, an abutting property owner and that owner's attorney. The purpose of the inspection was to verify the dimensional information provided to DES by the applicant on which the Permit was issued.
6. The inspection revealed that several important dimensions were reported in error on the application. These incorrect dimensions included distance from surface waters to the leach field of the system, and the distance to the well located on the abutting property.
7. On July 15, 2002, DES proposed revocation of CA2001039411. The Notice of Proposed License Action No. 02-002 was mailed certified/return receipt requested to Frank Guiffre. DES received postal confirmation that the Notice had been delivered to Mr. Guiffre.
8. The Notice stated, among other things, that Mr. Guiffre could request an adjudicatory hearing to contest the proposed revocation. The Notice also stated that the request for a hearing must be made by August 14, 2002.
9. DES has not received a request for a hearing on the Notice.

IV. Uncontested Revocation

Having received no request for hearing to contest the proposed revocation or any factual and legal findings upon which the proposed revocation was based, DES hereby concludes that the criteria for revocation of the Construction Approval under state law have been met.

Accordingly, pursuant to RSA 541-A:30, RSA 485-A:32, I and Env-Ws 1004.19(b), DES hereby revokes Construction Approval #CA2001039411, issued to Frank Guiffre on December 4, 2001. The revocation is effective as of the date of this final Notice.


COPY
Harry T. Stewart, P.E., Director
DES Water Division

Certified Mail #7099 3400 0003 0696 1579

cc: Board of Selectmen, Town of Salem
Gretchen Hamel, Administrator, DES Legal Unit
William E. Evans, P.E., Administrator, DES Subsurface Systems Bureau
Richard J. de Seve, DES Subsurface Systems Bureau
J. Patterson, NHDOJ
James Troisi, Esq.
M. Timothy Warnick